

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

INDIANAPOLIS

**OFFICE MEMORANDUM**

Date: June 26, 2000

To: Interested Parties

From: Janet G. McCabe  
Office of Air Management

Subject: NOx Rulemaking: Revised Draft and Recent Developments

As you may have heard, on June 22, 2000, the US Circuit Court denied the request for rehearing in the legal challenge to USEPA's NOx SIP call and directed states to file compliant NOx rules within 120 days (by late October). The Department of Environmental Management has begun the rulemaking process for the SIP Call (a First Notice of Rulemaking will publish in the *Indiana Register* on July 1) and will be talking with USEPA about our schedule for this significant rulemaking. It is not known at this time whether any party will request the US Supreme Court to review this court ruling.

Although the Department will move forward with development of rules to comply with the NOx SIP call, we remain on track, pending further discussions, to proceed with the Indiana state NOx rule, now scheduled for consideration of preliminary adoption by the Air Pollution Control Board on August 2, 2000. Indiana still has a federal deadline of December 2000 to complete its one-hour ozone attainment plans for Lake, Porter, Clark and Floyd counties which can satisfactorily be addressed by the pending state Nox rule.

At our workgroup meeting on June 7, several parties made comment on the draft rule language we had made available in advance of the meeting. We also invited written comments to be submitted to the agency by June 30. (This is an informal comment opportunity; there will be formal opportunities to comment at the August 2 board meeting and after the proposed rule is published in the *Indiana Register*.) Given the relatively short amount of time between now and the August 2 board meeting, we are now circulating a revised draft of the rule, which addresses a number of the issues mentioned on June 7, even though we realize the June 30 date has not passed and there may be other issues brought to our attention. In order to give the public an opportunity to review this latest draft, we are extending the (informal) comment deadline to July 6, 2000. Please also feel free to call Roger Letterman directly to provide comment or raise issues regarding the rule. Roger's phone number and e-mail address are included at the end of this memo.

Changes to the draft rule from the June 7 version are marked in the attached document with underlining. The key changes are:

- (1) Compliance with the .25 lb/MMBtu emission rate will be determined on an ozone season average, not a thirty day rolling average.  
*Explanation for change:* An ozone season average is consistent with the approach in the federal NOx SIP call and will allow for a smooth transition from the state rule to the federal program. For utilities to be assured that they would comply on the basis of a thirty day average would require installation, though not necessarily operation, of substantially more control equipment to provide a measure of redundancy in case of unanticipated shutdowns. This would add significantly to the cost to the ratepayers.
- (2) Intercompany averaging will be included as an option.  
*Explanation for change:* A number of affected companies indicated that an intercompany averaging option would greatly increase the flexibility of the rule and provide them with opportunities for cost savings in developing their compliance plans. All companies and units included in the averaging plan must be located in Indiana, and all companies participating will be considered legally responsible for compliance with the averaging plan.
- (3) A compliance option based on electric output has been included.  
*Explanation for change:* The revision would permit a source to calculate and track its compliance with the NOx reduction requirement on the basis of an electric generation output emission limit. This limit would be calculated to assure equivalent reductions in tons to what would be achieved using a lb/MMBtu limit, but would encourage energy efficiency measures as part of a source's compliance plan.
- (4) The language about sources subject to a NOx control plan pursuant to Section 126 has been clarified.  
*Explanation for change:* The rule now makes clear that a source subject to a final NOx control requirement under Section 126 of the Clean Air Act is exempt from requirements of the state rule. However, the unit may, at the election of the source, be included in an averaging plan for compliance with the Indiana NOx rule.
- (5) Language has been added to address sources venting to a common stack.  
*Explanation for change:* The rule clarifies how an averaging plan should address units that share a common stack.

Please feel free to contact Roger Letterman at 317-232-8342 (or 800-451-6027, ext. 2-8342) with questions or comments about this draft or the rulemaking process. Email address is [rletterm@dem.state.in.us](mailto:rletterm@dem.state.in.us)

A copy of the draft rule is provided at [www.state.in.us/ide/oam/standard/Sip/index.html](http://www.state.in.us/ide/oam/standard/Sip/index.html)

Attachment